

EXHIBIT A



SAP BUSINESS ONE SOFTWARE
MARKETING AND DISTRIBUTION AGREEMENT

This Agreement is made effective this 19 day of December 2005, by and between SAP America, Inc., a Delaware corporation, with offices at 3999 West Chester Pike, Newtown Square, Pennsylvania, U.S.A., 19073, ("SAP"), and LSI-Lawery a Missouri corporation, with offices at Systems Inc. ("Reseller").

1229 Horan Dr
St. Louis, MO 63026 RECITAL

WHEREAS, Reseller has represented to SAP that Reseller has significant and valuable industry experience in small and medium enterprise U.S. market(s), a good sales and marketing track record, financial stability, and a sound U.S. business; and

WHEREAS, Reseller markets, licenses, and distributes software and provides support and related services to software end users in such markets; and

WHEREAS, SAP and Reseller desire to successfully partner via this Agreement in order to pervasively penetrate the small and medium enterprise U.S. market; and

WHEREAS, SAP and Reseller desire to enter into a marketing arrangement, whereby Reseller will have the non-exclusive right to market, distribute, and support SAP Business One software to small and medium sized businesses in the Territory (as defined herein), all in accordance with this Agreement;

WHEREAS, SAP desires to grant, and Reseller desires to accept subject to the terms and conditions of this Agreement, a license to market and sublicense the Software and to provide support and Related Services in the Territory as part of its SAP Business One Software Marketing and Distribution program;

NOW, THEREFORE, SAP and Reseller agree as follows:

1. DEFINITIONS.

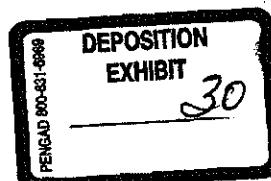
1.1 "Combination Use" means Use of the Software in combination or conjunction with any of the following: (i) any software other than the Software; (ii) any apparatus other than a Designated Unit; and/or (iii) any activities of Reseller not licensed under this Agreement.

1.2 "Correction Level" means a change in the Software between Versions made generally available by SAP to licensees of the Software [e.g., 3.01.01].

1.3 "Designated Unit" means each individual computer in which the Software and the Third Party Database are installed.

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1.4 Documentation means SAP's standard documentation as related to the Software, in any medium, which is delivered to the Reseller Licensee, including SAP's standard manuals, program listings, data models, flow charts, logic diagrams, functional specifications, instructions, and complete or partial copies of the foregoing.

1.5 Export and Exportation shall have the meanings given them under the applicable export control statutes and regulations administered by the relevant governmental agency and shall include the Use of the Software.

1.6 Extension means (i) a separate, stand-alone application or interface outside of the Software source code developed or created with the Software Development Kit - DEVELOPMENT delivered by SAP as a part of the Software that accesses the database used with, or that is a part of, the Software through a Software data interface API; or (ii) a separate, stand-alone application or interface outside of the Software source code developed or created with the Software Development Kit - DEVELOPMENT delivered by SAP as a part of the Software that enhances Software functionality and is accessed through a Software UI API. For purposes of clarification, any and all API's to the Software are part of the Software.

1.7 Maintenance means the maintenance and support services for the Software provided by a party pursuant to the terms and conditions of Appendix B as may be amended from time to time in accordance with Section 6.1.

1.8 Modification means a change to the Software that changes the source code.

1.9 Non-Productive Use means Use of the Software solely for Reseller Licensee's internal training of its employees to Use the deployed Productive Use system, testing, or developmental work in support of Reseller Licensee's Productive Use. All Reseller Licensee Non-Productive Use copies of the Software shall be of the same platform, database and operating system as the Productive Use version.

1.10 Productive Use means Use of the Software solely to operate Reseller Licensee's or an authorized Reseller Subsidiary's internal information technology business operations.

1.11 Program Concepts means the concepts, techniques, ideas and know-how embodied and expressed in any computer programs or modules included in the Software, including their structure, sequence and organization.

1.12 Proprietary Information means: (i) with respect to SAP and SAP AG, the Software and Documentation and any complete or partial copies thereof, the Program Concepts, the Third Party Database, the Software Development Kit - DEVELOPMENT, the Software Development Kit - IMPLEMENTATION, any other third party software licensed with or as part of the Software, benchmark results, and (ii) any other information reasonably identifiable as confidential and proprietary information of SAP, Reseller, their other licensors, or Reseller Licensees excluding any part of the Proprietary Information which: (a) was in the public domain



before the recipient party's receipt of the Proprietary Information; (b) enters the public domain through no act or omission of the recipient party; or (c) has been rightfully furnished to the recipient party by a third party without restrictions on use or disclosure.

1.13 **"Related Services"** means physical installation, training, and/or Maintenance.

1.14 **"Release"** means each issuance of the Software, excluding third party software, identified by the numeral to the left of the decimal point (e.g., 3.01).

1.15 **"Reseller Licensee"** means the legal entity that is a customer of Reseller hereunder and has executed an SAP End User License Agreement with SAP in accordance with the terms herein.

1.16 **"SAP End User License Agreement"** means the license agreement between SAP AG or one of its affiliates, including SAP, and a licensee (including without limitation a Reseller Licensee) under which rights have been granted to such licensee to Use the Software, Documentation and Third Party Database.

1.17 **"SAP AG"** means SAP Aktiengesellschaft, the licensor of the SAP Proprietary Information to SAP.

1.18 **"SAP Partner Program"** means the official SAP partner program for authorized Software reseller partners setting forth the business terms and conditions for SAP Business One Software resellers in the Territory.

1.19 **"Software"** means: (i) the SAP Business One Software in the Version as of the date of this Agreement which Reseller is authorized to distribute in accordance with this Agreement, (ii) any Releases, Versions, or Correction Levels of the Software released during the term of this Agreement, and (iii) any complete or partial copies of any of the foregoing.

1.20 **"Software Development Kit - DEVELOPMENT"** means (i) the SAP Business One Software Development Kit, including data interface and user interface components, contained in the Version available as of the date of this Agreement, developed by or for SAP and/or SAP AG and delivered to Licensee hereunder that is used solely for Non-Productive Uses in the development of Extensions; (ii) any Releases, Versions, or Correction Levels of such Software Development Kit as contemplated by this Agreement (if any); (iii) any other SAP software tools for SAP Business One Software delivered to Licensee by SAP hereunder for the purpose stated in this definition; and (iv) any complete or partial copies of any of the foregoing.

1.21 **"Software Development Kit - IMPLEMENTATION"** means (i) the SAP Business One Software Development Kit, including data interface and user interface components, contained in the Version available as of the date of this Agreement, developed by or for SAP and/or SAP AG and delivered to Licensee hereunder that is used solely for Non-Productive Uses in the implementation and configuration of the as-delivered Software; (ii) any Releases, Versions, or



Correction Levels of such Software Development Kit as contemplated by this Agreement (if any); (iii) any other SAP software tools for SAP Business One Software delivered to Licensee by SAP hereunder for the purpose stated in this definition; and (iv) any complete or partial copies of any of the foregoing.

1.22 "Territory" means the United States of America.

1.23 "Third Party Database" means a version of third party, proprietary database software licensed through SAP and/or Reseller to Reseller Licensees that is required for Use with the Software limited for Use solely in support of the Software.

1.24 "Use" means to load, access, execute, employ, utilize, store, or display the Software.

1.25 "Users" means those user types identified or defined in SAP End User License Agreement (s) or Appendices.

1.26 "Version" means each issuance of each Release of the Software, excluding third party software, identified by the numeral to the right of the decimal point (e.g., 3.01).

1.27 "Yearly Business Review" means the process by which Reseller will provide SAP information which SAP reasonably requires to determine which additional products and delivery vehicles, if any, Reseller will be permitted to offer in the Territory. Such information may include financial information, future business plans, sales training programs attended, support infrastructure training and capabilities and any other information required by SAP.

2. AUTHORIZATION AND COMMITMENT OF RESOURCES

2.1(a) Authorization. Subject to the terms of this Agreement, the terms and conditions of the SAP Partner Program and SAP's right from SAP AG and other licensors to provide such authorization, SAP hereby grants to Reseller, and Reseller hereby accepts, for the period commencing on the date specified in the first paragraph of this Agreement and ending on the last day of the calendar year in which the second anniversary of the commencement date occurs, a non-exclusive, non-transferable, non-sublicenseable license to:

(i) market and distribute the Software and Documentation and provide Related Services to prospective and current Reseller Licensees in the Territory;

(ii) Use the Software for testing with such Reseller Licensee's systems and for the demonstration to prospective Reseller Licensees and for similar Non-Productive Uses at Reseller's place of business, at a prospective Reseller Licensee's premises, or at appropriate off-site locations located in the Territory. Such Non-Productive Use shall be subject to the terms and conditions of the Software End-User Non-Productive Use License attached hereto and made a part hereof as Appendix A. Reseller agrees to execute any and all additional documents



relative to the Non-Productive Use License as required by SAP to deliver the Software under such Non-Productive Use License.

(iii) Use the Software Development Kit - IMPLEMENTATION contained in the Software and licensed to a Reseller Licensee as part of the Software solely for the purposes of implementation and configuration of the Software for such Reseller Licensee. Under no circumstances shall Reseller have the right to Use the Software Development Kit - IMPLEMENTATION to develop, market and/or distribute any modifications to the Software, including without limitation Extensions, for a Reseller Licensee on a specific engagement, other Reseller Licensees or third parties. In the event Reseller desires to develop, market and/or distribute Extensions, Reseller must license the Software Development Kit - DEVELOPMENT from SAP (subject to SAP's discretion as to qualification into such program and in all cases subject to then-current terms and conditions) and such rights shall be further governed by Section 2.10, including without limitation the requirement to execute a separate Software Development Kit - DEVELOPMENT license with SAP.

The rights granted to Reseller under this paragraph 2.1(a) expressly do not extend to Reseller with respect to Reseller Licensees and prospective Reseller Licensees which are headquartered outside the Territory, have a parent organization outside the Territory or require Use of the Software outside of the United States.

The rights granted to Reseller under this paragraph 2.1(a) further expressly exclude any entity which Uses or intends to Use the Software and Documentation to train its employees and/or consultants to provide implementation, testing and/or consultancy services to third parties, or Uses or intends to Use the Software and Documentation to perform software integration, testing or development services other than to support its Productive Use. The grants in this Article 2 are non-transferable without the prior written consent of SAP.

2.2 Reseller Licenses.

2.2(a) Other than the terms of the SAP End User License Agreement, Reseller controls the terms on which it does business with its Reseller Licensees, including any commitments relating to the Software (e.g. specifying future discounts or prices), and is responsible for compliance with, and enforcement of, its agreements with such Reseller Licensees. Reseller agrees that, as a part of its obligations to SAP, Reseller shall not impose any liabilities on SAP or agree to any provisions with a Reseller Licensee that are inconsistent with SAP's intellectual, industrial and other property rights. In no event shall a Reseller Licensee be granted a right to assign, sublicense or distribute the Software to other Reseller Licensees, persons or entities. Reseller will reasonably cooperate and assist SAP in enforcing any of SAP's rights against Reseller Licensees. Reseller acknowledges and agrees that such enforcement by SAP may include, without limitation, termination of the SAP End-User License Agreement(s) between SAP and a Reseller Licensee against which SAP has undertaken enforcement action. SAP shall have no liability whatsoever to Reseller in the event of such termination. Reseller acknowledges and agrees that in the event of such terminations, its other contracts with such terminated



Reseller Licensees may be adversely affected, and Reseller shall take appropriate steps to address this potential issue in its other contracts. Reseller will notify SAP promptly of any unauthorized use of the Software or other SAP Proprietary Information by Reseller Licensees that comes to Reseller's attention. SAP, SAP AG and its licensors shall have the sole right and discretion to bring enforcement proceedings involving the Software, provided, however, that it may agree with Reseller to jointly bring and/or pursue such proceedings.

2.2(b) All licenses of the Software, Third Party Database and Documentation distributed by Reseller shall be consistent in all respects with the SAP End User License Agreement provided by SAP to Reseller Licensee. Reseller shall not deliver any Software or other SAP Proprietary Information to Reseller Licensee until SAP and Reseller Licensee execute the SAP End-User License Agreement for the Software, Third Party Database and Documentation. Any unauthorized change in the SAP End User License Agreement by Reseller is a default in the performance of a material obligation of this Agreement and grounds for termination under Section 15.2(b) of this Agreement. SAP may amend the SAP End User License Agreement from time to time without prior notice from SAP, and such amended documents may be provided by SAP for use by Reseller in distributing the Software hereunder.

2.3 Non-Exclusivity. SAP and Reseller agree that the rights granted to Reseller hereunder are non-exclusive. SAP AG and/or SAP and/or its or their affiliates may itself or may authorize others to offer the Software, Related Services and/or other services related to the Software in the Territory as it/they may deem appropriate in its/their sole discretion.

2.4 SAP Retained Rights.

2.4(a) The licensing of the Software is further subject to any additional restrictions contained in the then current SAP Business One U.S. List of Prices and Conditions and the SAP Partner Program. SAP reserves the right to alter, change, amend or otherwise modify in any manner whatsoever the SAP Business One U.S. List of Prices and Conditions in accordance with Section 7.2 of this Agreement. Reseller acknowledges and agrees that the SAP Partner Program is an integral part of the relationship between the parties, and the terms and conditions of such program are incorporated herein by reference. SAP reserves the right to alter, change, amend or otherwise modify in any manner whatsoever the SAP Partner Program upon thirty (30) days prior written to Reseller.

2.4(b) SAP retains the right to enter and market in any lines of business by itself or with or through third parties in the Territory, including without limitation lines of business that involve or relate to the Software and Related Services. SAP shall not be required to pay Reseller any fees or royalties associated with transactions between SAP and any entities pursuant to SAP's retained rights.

2.5 Services. Reseller shall ensure that all contracts for services provided by Reseller to Reseller Licensees are entered into and executed in the name of and by the party performing



such services and that each party will assume liability under such contract for its own services and acts.

2.6 Best Efforts. Reseller shall use its best efforts to market and license the Software and market and provide Maintenance and support services. RESELLER DOES SO AT ITS OWN RISK AND FOR ITS OWN ACCOUNT EXCEPT AS OTHERWISE SET FORTH HEREIN.

2.7 End-User Transition.

2.7(a) Reseller acknowledges and agrees that Reseller Licensees may, from time to time, choose to terminate their relationship(s) with Reseller and receive Related Services from SAP, SAP affiliates, or other authorized distributors of SAP software. In the event a Reseller Licensee ceases to be a customer of Reseller, for any reason, Reseller shall cooperate with SAP and such Reseller Licensee in order to ensure the smooth transition of the business relationship from Reseller to another party selected by Reseller Licensee or SAP. Reseller acknowledges and agrees that SAP shall have no liability in this regard.

2.7(b) In the event any SAP licensee divests an entity and such entity does not have Use or access rights to the Software pursuant to an SAP End User License Agreement, SAP in its sole discretion shall determine whether the Reseller shall be entitled to license to such divested entity in accordance with this Agreement.

2.7(c) In the event a Reseller Licensee is acquired by or otherwise merged with or into an existing licensee of SAP software, Reseller shall no longer be entitled to license the Software to that entity without the prior express written approval of SAP.

2.8 Reputation. Reseller agrees not to act in any manner that negatively affects or is likely to negatively affect the reputation of SAP, its software (including the Software), services, or SAP's trademarks.

2.9 Limitation and Restrictions. Except as expressly provided herein, Reseller shall not, and shall not license, authorize, or permit any Reseller Licensee or any other third party to:

(i) modify, create any derivative work of, include in any other software or, except as expressly provided herein, make any copies of the Software or Documentation or any portion thereof;

(ii) create any Modifications or, except as provided in Sections 2.1(iii) and 2.10 of this Agreement, Extensions to the Software;

(iii) market, distribute, sell, or deploy the Software or Documentation or any copies thereof packaged, bundled, incorporated in, or embedded with or into any product or service not provided by SAP without SAP's prior express consent;



(iv) disassemble, or decompile, nor recreate or attempt to recreate, by reverse engineering or otherwise, the source code from the object code of the Software or use it to create a derivative work except as previously authorized or directed by SAP for the purposes of correcting errors in the Software or performing warranty, Maintenance, and other support services; or

(v) Use the Software for timesharing, service bureau or service provider purposes, except as may be specifically authorized by SAP in writing.

2.10 Authorized Extensions and Restrictions; Ownership and Support of Extension(s).

2.10(a)

(i) SAP may, in its sole discretion and in addition to other rights granted under this Agreement, authorize Reseller to develop Extension(s) to the Software. In the event SAP so authorizes Reseller, in addition to the terms and conditions of this Agreement (and any authorization and/or qualification requirements as may be determined by SAP in its sole discretion), all such Extensions shall be subject to the terms and conditions of the Limited Term SAP Business One Software Development Kit -DEVELOPMENT License to be executed between SAP and Reseller. Reseller shall not be permitted to develop Extension(s) under this Agreement unless and until Reseller is so authorized by SAP and executes the Limited Term SAP Business One Software Development Kit - DEVELOPMENT License with SAP.

(ii) Reseller shall not market the Extension(s) independently, but may, according to this Agreement, develop, distribute, license, sell or otherwise deploy Extension(s) to SAP or Reseller Licensees in connection with Reseller's provision of consulting services. Reseller shall not engage with any entities other than Reseller Licensees for the purposes of developing, distributing, licensing, selling or otherwise deploying Extension(s) without the prior written consent of SAP and provided Reseller has executed the appropriate written software development agreement (including without limitation the Limited Term SAP Business One Software Development Kit -DEVELOPMENT License) with SAP.

(iii) Reseller shall not enter into exclusive relationships or transactions with any third party vendors, suppliers or providers pursuant to which it becomes the exclusive vendor of an Extension(s) between such vendor's software and the Software. SAP may, at its discretion, enter into relationships or transactions with such third party vendors, suppliers or providers for the same or similar products or services. SAP may, at its discretion, independently (on its own or through third parties) develop the same or similar Extensions (and in its discretion include them in the Software), with no liability to Reseller for such activities.

2.10(b) Ownership of Extension(s) shall be subject to the Limited Term SAP Business One Software Development Kit - DEVELOPMENT License between SAP and Reseller.



2.10 (c) Reseller shall offer to Reseller Licensees, on such terms as Reseller may, in its sole discretion, elect, to maintain and support all Reseller Extension(s) and adapt such Reseller Extension(s) to new Software Releases, Versions and Correction Levels. SAP shall have no liability or obligation for such activities.

3. ENCUMBRANCE, OWNERSHIP, COPYRIGHT NOTICES, TRANSLATION AND EXPORTATION.

3.1 Encumbrance. In no event shall Reseller engage in the lease, transfer, rental, loan or any other encumbrance of the Software by any means including by operation of law.

3.2 No Translation. Reseller shall not translate any portion of the SAP Proprietary Information, including Documentation, into any other language.

3.3 No Exportation. Regardless of any disclosure made by Reseller to SAP of an ultimate destination of the Software, Documentation, Third-Party Database, and other provided SAP Proprietary Information, Reseller acknowledges that SAP's Software, Documentation, and Proprietary Information are being released or transferred to Reseller in the United States and are therefore subject to the U.S. export control laws. Reseller shall not Export nor knowingly permit the Exportation of the Software from the United States of America to any destination without the express prior written authorization of SAP. Reseller agrees that it will not submit the Software to any government agency for licensing consideration or other regulatory approval without the prior written consent of SAP. Failure to abide by this provision is a material breach of this Agreement.

4. MARKETING.

4.1 Intentionally Omitted.

4.2 Premises and Personnel. Reseller shall maintain an appropriate organization in the Territory dedicated to the performance of Reseller's obligations hereunder with competent sales, marketing implementation and software support capabilities. Reseller agrees to employ qualified consultants and other personnel as needed to fulfill its obligations hereunder and shall provide appropriate training for its employees.

4.3 Business Opportunity Management. Reseller shall use and maintain all customer leads in the sales opportunity management system maintained by SAP, and shall comply with all sales opportunity management requirements as established by SAP from time to time.

4.4 Responsibilities.

4.4(a) Reseller shall be solely responsible for the collection of payments, demonstration, installation, implementation, training and support for the Software, and Reseller's obligations under Maintenance at the location of any of its Reseller Licensees. Reseller shall make diligent



inquires to determine that the prospective Reseller Licensee intends to use the Software and Documentation to run its internal business operations and does not intend to Use the Software or Documentation in any manner in contravention of this Agreement or the SAP End User License Agreement. Reseller will: (i) provide instruction to its Reseller Licensees regarding the Use and installation of the Software; (ii) use trained technicians experienced in the computing industry and familiar with the Software to provide technical support and assistance; and (iii) provide answers to current and prospective Reseller Licensee questions and problems regarding the installation and Use of the Software.

4.5 Accountability. RESELLER SHALL BE RESPONSIBLE FOR ACCURATELY AND COMPLETELY REPRESENTING THE SOFTWARE AND ITS SERVICES. RESELLER SHALL ASSUME ALL FINANCIAL AND LEGAL LIABILITY FOR THE QUALITY, RELIABILITY, AND ACCURACY OF ALL REPRESENTATIONS MADE BY RESELLER, ITS EMPLOYEES, AGENTS, AND CONSULTANTS REGARDING THE SOFTWARE, WHETHER ORAL OR WRITTEN, BEYOND WHAT IS CONTAINED IN THE DOCUMENTATION AND OTHER SAP OFFICIALLY SANCTIONED MATERIALS, AND SHALL ASSUME PRIMARY RESPONSIBILITY FOR ALL COMMUNICATIONS ASSOCIATED WITH ANY CLAIMS, PROBLEMS, OR OTHER COMPLAINTS AS TO QUALITY, FUNCTION, PURPOSE, AND COMPATIBILITY IN ACCORDANCE WITH THE DOCUMENTATION WHENEVER THE SOFTWARE IS REFERENCED, DEMONSTRATED OR ADVERTISED. Reseller shall give SAP, SAP AG and its licensors appropriate credit for the ownership of the Software at any presentation of the Software.

4.6 Authorized Licenses. Reseller warrants and represents that it will not market or distribute the Software to any entity or person other than a prospective or current Reseller Licensee in the Territory and otherwise meeting the requirements imposed by this Agreement.

4.7 Performance Targets.

4.7(a) Performance Targets. Reseller shall meet the sales and other performance targets set forth in the SAP Partner Program or as otherwise mutually agreed upon by the parties in writing from time to time.

4.7(b) Sales Capacity. Reseller shall create and maintain a sales capacity at each location within the Territory, which is comprised of sales, pre-sales, support and administrative personnel and equipment, at the Reseller's own expense, required to meet its Sales Targets, Customer Satisfaction Targets, any other performance targets established hereunder, and otherwise perform its obligations hereunder.

4.7(c) Customer Satisfaction Targets. Reseller shall obtain and maintain customer satisfaction ratings, as set forth in the SAP Partner Program or as mutually agreed upon by the parties in writing from time to time ("Customer Satisfaction Target"). Customer satisfaction shall be measured by SAP in substantially the same manner as SAP measures customer



satisfaction for its directly licensed customers. In the event Reseller does not provide SAP accurate, complete and timely information required to complete customer satisfaction surveys, Reseller shall be deemed to have received an unsatisfactory rating for that period. Unless otherwise requested in writing by the customer, SAP shall promptly deliver to Reseller all customer satisfaction questionnaires and surveys received by it with respect to the Reseller.

4.8 Third Party Products. Due to the unusual complexity of the Software, some third party software and hardware may not be compatible with the Software, may impose special support obligations or may hinder the Software's use, thereby causing damage to SAP and/or Reseller. Therefore, Reseller agrees to not distribute, support, promote, or recommend any third party product for purposes of interoperating with the Software which has not been previously approved in writing by SAP or otherwise has been made known to the public officially as appropriate for Use or interoperability with the Software. Reseller's breach of this provision shall be a material breach of this Agreement. In the event Reseller desires to determine whether a third party product is approved by SAP for interoperability with the Software, Reseller shall submit such request in writing to SAP in accordance with SAP's policies. All expenses relative to the third party product approval shall be borne by Reseller, and any SAP resources shall be invoiced at SAP's then-current rates, to be paid within thirty (30) days of the date of such invoice.

4.9 Marketing and Advertising.

4.9(a) Reseller agrees to advertise locally within the Territory, as necessary and appropriate, to promote the Software, achieve Reseller's sales targets, and exploit the local market potential for the Software and Reseller's maintenance and support services.

4.9(b) Reseller will be expected to participate actively in trade shows and events suitable for promoting the Software and support services. All advertising, promotions, and participation in trade shows and events shall be at Reseller's expense, except as otherwise agreed in writing between SAP and Reseller.

4.9(c) Marketing and promotional materials, including advertising and publicity materials, which are provided by SAP will be provided by SAP to Reseller upon Reseller's request, and charged to Reseller at SAP's cost, unless otherwise agreed between SAP and Reseller. Upon SAP's request, Reseller shall be expected to participate actively in the development of such materials.

4.9(d) All marketing and promotional materials developed by or for Reseller, including, but not limited to, print advertisement, broadcast or telecast commercials, product brochures, sales aids, manuals, displays, and publicity concerning the Software and services shall be of first quality and graphically shall be designed to meet the buying characteristics of the target market. All such materials shall be submitted to the SAP SMB Business Development Manager to ensure consistency with SAP and industry standards for review at least ten (10) business days prior to publication, distribution or broadcast.



4.9(e) Upon the request of Reseller, SAP will agree from time to time to provide speakers and staff support without charge to Reseller for conducting conferences subject to the availability of SAP's own resources and its prior obligations.

4.10 Information Duties of Reseller.

4.10(a) Reseller will regularly inform SAP about its market, the marketing activities, and the results of its sales efforts as related to the Software. Such information shall be considered Reseller Proprietary Information so long as the exclusions in Section 1.12 do not apply to the information.

4.10(b) Reseller will regularly solicit, and investigate requests from its Reseller Licensees for alteration and further development of the Software and maintenance and support services. It will submit proposals for such further development and support to SAP for evaluation utilizing the SAP development support questionnaires.

4.10(c) Reseller will provide accurate and up-to-date marketing and forecasting information to SAP on a regular basis, in accordance with Section 4.3, including prompt updates concerning matters that materially affect the current sales forecast. From time-to-time, SAP may make special requests with respect to marketing and forecasting information. Upon such requests, Reseller will use its reasonable efforts to provide such information in an organized, timely and accurate fashion.

4.10(d) Reseller and SAP will conduct a Yearly Business Review, as directed by SAP.

4.11 Reseller Licensee Training. Reseller, at its own expense, will provide for the appropriate and necessary training and training facilities for its Reseller Licensees or arrange for the provision of such training by SAP-authorized third party training partners or by SAP.

4.12 Audit. Reseller shall ensure that it has appropriate resources and capabilities to audit at its own expense the Reseller Licensees' Uses of the Software under the SAP End User License Agreement, including any third party software. Reseller shall cooperate at its own expense with SAP and SAP's processes in conducting such audits.

5. ADDITIONAL OBLIGATIONS OF THE PARTIES.

5.1. Sales Execution Process. Reseller shall comply with the SAP's standard Sales Execution Process, to include without limitation matters pertaining to licensing of the Software to Reseller Licensees, placing orders for Software, delivery of Software, and invoicing. SAP may amend the Sales Execution Process upon thirty (30) days notice to Reseller.

5.2. Encryption and Authorization Codes. Except as expressly authorized or directed by SAP hereunder or elsewhere in writing, Reseller shall not copy or arrange for or allow third parties to



copy any part of the Software or Documentation. Reseller shall comply with all of SAP's instructions regarding authorization codes, and any encryption and security procedures and devices that may be incorporated from time to time within the Software or any part of the Documentation.

5.3 Duty of SAP to Deliver.

5.3(a) In accordance with the terms of this Agreement and SAP's standard Sales Execution Process, SAP shall make available to Reseller the Software, Documentation, Maintenance, and other services as are offered to similarly situated distributors of the Software by SAP from time to time.

5.3(b) In SAP's sole discretion, SAP's obligations under Section 5.3(a) above may be suspended or waived under any of the circumstances set forth in Sections 5.3(b)(i) through (vi). SAP shall notify Reseller immediately when it has determined that it will suspend performance of any of such obligations. Unless SAP expressly indicates otherwise, suspension of any such obligations shall not constitute a termination notice under Article 15.

5.3(b)(i) If Reseller has materially breached a provision of this Agreement and such breach has not been remedied within ten (10) days after SAP notifies Reseller of such breach, or an anticipatory breach has occurred by Reseller and reasonable assurances are not provided to SAP within ten (10) days of such notice that the anticipated breach will not occur. Such breaches may include, but are not limited to, delay in payment, violation of Software protection and secrecy, marketing contrary to or in disregard of the standard practices of SAP, and material, substantiated Reseller Licensee complaints attributable to Reseller's action or inaction;

5.3(b)(ii) If there are serious technical problems which exist with regard to the Software and have not yet been corrected, product liability risks, or problems in the production or third-party distribution of the Software;

5.3(b)(iii) If Reseller has not cured a failure to achieve or maintain full compliance with a legal or other regulatory requirement which failure exposes SAP or Reseller to the risk of penalties or other punitive action; or

5.3(b)(iv) Reseller has executed a non-standard license agreement with a Reseller Licensee which license agreement has not been approved by SAP in writing for the grant of license to the particular Reseller Licensee with which the non-standard license is applicable;

5.3(b)(v) If Reseller fails to timely pay its invoices to SAP; or

5.3(b)(vi) If there is any other circumstance which endangers the security or confidentiality of the Software.



5.4 Delivery Procedures.

5.4(a) Delivery procedures shall be established in the Sales Execution Process in accordance with Section 5.1 of this Agreement. SAP shall not be liable to Reseller for delays in shipments due to causes beyond SAP's reasonable control.

5.4(b) The Software and Documentation will be provided in machine-readable form on CD-ROM or such other media as SAP or SAP AG then provides to the commercial market.

5.5 Support of Reseller.

5.5(a) SAP shall make available support services for Reseller and its Reseller Licensees as set forth in this Agreement. For services not set forth herein, SAP will provide such services at the prices and under the conditions set forth in its then-current SAP Business One U.S. List of Prices and Conditions, or if not applicable then in accordance with SAP's then-current rates for such services, or as otherwise may be reasonably determined by SAP.

5.5(b) Reseller's requests for support service from SAP must be in writing and with a description of the technical problem and functionality requirements in sufficient detail to allow SAP to properly evaluate the scope of any problem and the degree of support required. Requests for support service from SAP in instance of critical downtime may be made orally with a written request submitted shortly thereafter. Prior to initiating any support, SAP, Reseller, and the Reseller Licensee, as appropriate, shall consult and agree upon all aspects of support to be provided.

5.6 Information for Reseller. SAP will keep Reseller informed in timely fashion of matters affecting Reseller and its relations with its Reseller Licensees and prospective Reseller Licensees, including but not limited to new functionality, technical problems, and delays in delivery. Such notice may be made available in SAP AG's Online Service System and Customer Support System ("CSS" or "CSU in the Americas") or other SAP online support portal (collectively referred to as, "OSS/CSU") at SAP's sole discretion. SAP will notify Reseller as much in advance of such developments as is reasonably possible and sufficiently in advance of changes in the Software and SAP business terms, so that Reseller may take the steps necessary to accommodate such changes in its business operations. SAP will provide Reseller with access to OSS/CSU as may be necessary under this Agreement in SAP's sole discretion.

5.7 Use of Software by Reseller. Upon Reseller's request, SAP will provide a certain number of copies and licensed users for the Software to Reseller for testing, training of its employees, and demonstration by Reseller to prospective Reseller Licensees in accordance with Section 2.1(a)(ii). Any third party software required with the Software shall be provided to Reseller at then-current prices in effect. Reseller shall thereafter bear all responsibility for maintenance and enforcement and performance of third party license requirements. In the event Reseller desires the Software for its own Productive Use, Reseller and SAP shall execute SAP's standard SAP End User License Agreement in advance of such Productive Use.



6. SOFTWARE MAINTENANCE AND SUPPORT SERVICES.

6.1 Maintenance and Support Services. The parties shall provide the Maintenance and support services set forth in Appendix B ("Maintenance"). SAP reserves the right to alter, change, amend or otherwise modify in any manner whatsoever Appendix B upon thirty (30) days prior written notice to Reseller.

6.2 Availability to Reseller Licensees. Throughout the term of this Agreement, Reseller will offer to all Reseller Licensees an opportunity to purchase Maintenance on such specific terms and at such prices as SAP and Reseller may from time to time determine. Reseller will promptly notify SAP of each Reseller Licensee that purchases or renews an annual agreement for such Maintenance, and of any Reseller Licensee that declines to purchase or renew such annual Maintenance.

6.3 Annual Maintenance Royalty. In consideration of SAP's provision of Maintenance services as described in Appendix B, Reseller shall pay to SAP an annual Maintenance royalty as stated in the SAP Partner Program. The first annual payment for such Maintenance royalty shall be due with the Software royalty payment as stated in Article 7 and the SAP Partner Program, and shall be pro-rated if such payment is due prior to January 1 of the following calendar year. Maintenance royalties are invoiced on an annual basis in advance effective January 1 of a calendar year.

6.4 Limitation on Reseller Maintenance Contracts; Survival of Maintenance Obligations. Reseller shall not enter into Maintenance obligations with Reseller Licensees that are inconsistent with the obligations of SAP stated in this Agreement or of a duration exceeding twelve (12) months. Such obligations shall be offered for renewal (for no longer than twelve (12) months at a time) during the Term of this Agreement. SAP's and Reseller's obligations to provide Maintenance in accordance with this Agreement shall survive termination of this Agreement for a period of the lesser of (i) twelve months, or (ii) the longest period of time remaining on Reseller's support obligations to any Reseller Licensee.

7. PRICES AND PAYMENT.

7.1 Royalties and Payments. The royalties and payment process for the Software, and the respective rights and obligations of the parties with regard to remuneration, are set forth in the SAP Partner Program. The marketing and distribution of the Software by Reseller is subject to any additional restrictions contained in the then-current SAP Business One U.S. List of Prices and Conditions; provided however that nothing in the SAP Business One U.S. List of Prices and Conditions shall be read to change or modify the terms of this Agreement.

7.2 Prices. The services provided by SAP to Reseller will be governed by the most current SAP Business One U.S. List of Prices and Conditions in effect for such services at the time the services are rendered unless otherwise agreed; provided however that nothing in the SAP



Business One U.S. List of Prices and Conditions shall be read to change or modify the terms of this Agreement.

7.3 Changes to Price List and Distribution of Software. SAP reserves the right (i) to change its SAP Business One U.S. List of Prices and Conditions as may be reasonably required and consistent with SAP's practices and only upon providing Reseller with thirty (30) days prior written notice and (ii) to discontinue the distribution of all or any components or functionality of the Software upon sixty (60) days prior written notice to Reseller and to cancel any orders for such discontinued Software without liability to Reseller except the return of any prepaid license fees or service fees for such Software.

7.4 Overdue Accounts. Any amounts past due shall bear simple interest from and after the date such amount is due until payment is made at a rate per annum up to, and not exceeding, the U.S. prime rate plus 5%. The parties acknowledge and agree that all fees to be collected by it are for its own account and shall not be applied to reduce, offset or make contingent any payments due the other party.

7.5 Taxes and Duties. Reseller shall either collect and pay or furnish SAP with appropriate proof of exemption from all sales, use and other applicable taxes and all customs duties and fees, Export taxes and fees, and other charges (with the exception of the income taxes of SAP) applicable to SAP's delivery of the Software and the Documentation to Reseller or any services to the Reseller Licensee. SAP shall have no liability or obligation relative thereto. Reseller shall provide to SAP copies of all valid resale certificates prior to Reseller's exercise of any rights under this Agreement, shall keep current all such resale certificates, and shall notify SAP immediately if any such resale certificates are no longer valid.

8. REPRESENTATIVES.

8.1 Appointment. Each party shall appoint qualified business and technical representatives who shall be responsible for monitoring each phase of the marketing, distribution, and support efforts and who shall act as the contact point(s) between the parties during the term of this Agreement.

8.2 Reports/Meetings. Reseller shall submit those reports and attend those meetings related to the business of marketing and distributing the Software as reasonably requested by SAP from time to time and otherwise in accordance with the SAP Partner Program.

9. TRAINING.

9.1 Training Obligation. Reseller and Reseller's key sales and marketing personnel and key technical and support personnel shall attend an appropriate number of designated SAP-sponsored Software training courses at rates set forth in SAP's then-current SAP Business One U.S. Price



List and Conditions, or if not applicable then in accordance with SAP's then-current rates for such services, or as otherwise may be reasonably determined by SAP.

9.2 Reseller Personnel.

9.2(a) Reseller shall continue the training of sales and marketing personnel, technical support personnel, and any consultants engaged by Reseller as required to fulfill its obligations hereunder.

9.2(b) Upon written request of Reseller, training days may be scheduled by SAP at rates set forth in its then-current SAP Business One U.S. List of Prices and Conditions, or if not applicable then in accordance with SAP's then-current rates for such services, or as otherwise may be reasonably determined by SAP. Reseller shall pay SAP's invoice for training, together with all travel and living expenses of SAP's representatives, if any, within thirty days of submittal by SAP to Reseller.

9.2(c) SAP will provide training to Reseller's pre-sales and sales personnel by SAP, at then-current rates. Any classes or training offered at no charge, will be subject to reimbursement to SAP at then-current rates if such personnel remain in Reseller's employ but do not remain in sales or pre-sales for at least twelve (12) months after training.

10. RECORDS AND AUDITS.

10.1 Proper Records. Reseller shall keep proper records, books of account and logs concerning the distribution and reproduction, if any, of the Software. Such records shall be adequate to determine the amount of license fees owed to SAP and shall be preserved by Reseller for a period of three years immediately following termination of this Agreement.

10.2 Audit. During the term of this Agreement, and during the three-year period immediately following termination, SAP shall have the right to audit Reseller's records concerning the reproduction and sublicensing of the Software, and any other obligations of Reseller to SAP under this Agreement. Such audits shall be conducted at SAP's expense, during normal business hours following written advance notice to Reseller not less than ten business days in advance, and in a manner so as to not unreasonably interfere with Reseller's business operations.

10.3 Confidentiality. SAP will keep any and all Proprietary Information derived from any audits confidential. This Proprietary Information shall not be used by SAP for any purpose other than to verify or resolve any discrepancy involving the payment of license fees due from Reseller under this Agreement and in SAP's reviews of Reseller's performance under this Agreement (including in all cases use in proceedings to enforce SAP's rights).

10.4 Discrepancy. In the event an audit of Reseller's records, books of account or logs reveals that Reseller has underpaid any fees or amounts due to SAP for the period under audit, Reseller shall promptly pay to SAP the amount of the underpayment. If the amount of underpayment for



the period under audit exceeds five percent of the amount owed during such period, Reseller shall reimburse SAP for all costs incurred by SAP in connection with the audit and, consistent with Section 15.2(b), SAP may determine to terminate this Agreement.

11. PROPRIETARY INFORMATION.

11.1 Ownership of Proprietary Information.

11.1(a) Ownership of and title in and to all intellectual property rights, including patent, copyright, trade secret, trademark, service mark, and domain name rights, in the SAP Proprietary Information are and shall remain in SAP, SAP AG, and their licensors. Reseller acquires only the right to use the SAP Proprietary Information under the terms and conditions of this Agreement and does not acquire any ownership rights or title in or to the SAP Proprietary Information. Reseller may only provide the Software and Documentation to Reseller Licensees. Such delivery must be in the SAP-provided form and on the SAP-provided media.

11.1(b) Notwithstanding any prior agreements to the contrary (including any SAP End User Agreement with Reseller), as of the effective date of this Agreement any Modifications or unauthorized Extensions that are created on behalf of Reseller or any third party shall be the exclusive property of SAP. Reseller expressly assigns any existing rights in such work to SAP and agrees to assign to SAP any such rights that it may subsequently acquire, including but not limited to patent rights. Upon SAP's request, Reseller will execute, acknowledge, and deliver to SAP all documents and do all things necessary, at SAP's expense, to enable SAP to obtain and secure all rights in such Modifications or unauthorized Extensions, or other work product throughout the world. Reseller will secure the necessary rights and obligations from relevant employees and third parties to satisfy the above obligations. If SAP is unable, after reasonable effort, to secure any signature on any application for patent, copyright, trademark, or other analogous registration or other documents regarding any legal intellectual property protection, whether because of physical or mental incapacity or for any other reason whatsoever, Reseller hereby irrevocably designates and appoints SAP and its duly authorized officers and agents as its agent and attorney-in-fact, to act for and in its behalf and stead to execute and file any such application or applications or other documents and to do all other lawfully permitted acts to further the prosecution and issuance of patent, copyright, or trademark registrations or any other legal protection thereon with the same legal force and effect as if executed by Reseller. For purposes of clarification, SAP's and Reseller's respective rights in and to Extension(s) authorized under this Agreement shall be governed by this Agreement and the Limited Term SAP Business One Software Development Kit – DEVELOPMENT License.

11.1(c) As between Reseller and SAP, Reseller shall own all right, title, and interest in and to any Reseller Proprietary Information including any Reseller software, training, documentation, or marketing materials created by Reseller.

11.1(d) Reseller shall maintain a current, complete, and accurate accounting of the number and location of all copies of the Software and Documentation it has licensed and all SAP Proprietary Information in its possession.

11.1(e) Reseller shall not remove any proprietary, copyright, patent, trademark, or service mark legend from the Software, Documentation, Third Party Database, or other SAP Proprietary



Information. Reseller shall ensure that SAP's, SAP AG's, and their licensors' legends contained in or on any copies of the SAP Proprietary Information remain in or on the original and any copies reproduced by Reseller. The inclusion of a copyright notice on any portion of the Software, Documentation, Third Party Database, or any other Proprietary Information shall not cause nor be construed to cause it to be a published work.

11.2 Protection of Proprietary Information.

11.2(a) Neither party shall, without the other party's prior consent, use, disclose, or make available any of the Proprietary Information of the other party in any form to any person, except to those whose access is necessary to enable such party to exercise its rights hereunder. Each party agrees that prior to disclosing any Proprietary Information of the other party to any contractual third party, it will obtain from that third party a written agreement containing restrictions on use, copying, and disclosure that are at least equal to those restrictions contained in this Article 11.

11.2(b) Reseller and SAP agree that any unauthorized use or disclosure to third parties of the other's Proprietary Information may cause immediate and irreparable harm to the owner of the disclosed Proprietary Information; therefore, each party agrees to take all reasonable steps and the same protective precautions to protect the other's Proprietary Information from disclosure to third parties as it takes with its own proprietary and confidential information, but in no event less than a reasonable degree of care.

11.2(c) Reseller shall monitor whether unauthorized third parties have obtained SAP Proprietary Information from Reseller and are making unlawful use of any SAP Proprietary Information (including the Software and Documentation) and shall use reasonable efforts to monitor the compliance of Reseller Licensees. Reseller shall inform SAP immediately of any reports of such activity. Reseller shall provide an annual report to SAP stating that Reseller has visited each Reseller Licensee at least once during that year to determine that the Reseller Licensee was complying with the terms of its SAP End User License Agreement. Reseller, at Reseller's own cost, shall assist SAP as reasonably requested by SAP in SAP's enforcement of SAP's rights in its Proprietary Information. Such assistance includes, but is not limited to, sending cease and desist notifications and terminating Maintenance.

11.2(d) Reseller shall establish specific procedures designed to meet the obligations of this Agreement. Such procedures will include the execution of appropriate agreements with Reseller's contractors, agents, and employees containing restrictions on use, copying, and disclosure that are at least equal to those restrictions contained in Article 11, prior to any disclosure of the Proprietary Information. Reseller shall immediately notify SAP in the event an employee, consultant, or agent of Reseller, for which a C-number has been assigned by SAP for purposes of access to SAP and/or SAP AG systems, is terminated, resigns or otherwise no longer requires such C-number.

11.3 Trademarks.

11.3(a) SAP hereby grants Reseller a non-exclusive, non-transferable, limited license to use the trademarks and service marks used by SAP, SAP AG, or their licensors in connection with the Software (collectively, the "Marks"). Reseller may use the Marks solely in connection



with the distribution, marketing, promotion, and advertisement of the Software and Related Services described in this Agreement. Reseller shall use the Marks in the proper, form and manner and with appropriate legends as prescribed by SAP from time to time. Reseller shall not use the Marks in connection with any other trademarks, service marks or logos without SAP's prior approval. With respect to Reseller's use of the Marks, Reseller shall comply with SAP's trademark use guidelines as same may be amended from time to time, as well as the SAP Partner Program.

11.3(b) All right, title, and interest in and to the Marks, including all goodwill associated with the Marks, shall remain vested in SAP, SAP AG, or their licensors. All use of the Marks by Reseller shall inure to the benefit of and be on behalf of SAP, SAP AG or their licensors, as the case may be. Reseller warrants that it will not act in a manner inconsistent with such ownership and will not challenge the validity of the Marks.

11.3(c) The nature and quality of all uses of the Marks made by Reseller shall conform to the standards set by SAP and communicated to Reseller, either directly or indirectly.

11.3(d) Reseller will reasonably cooperate and assist SAP in registering, maintaining, and protecting the Marks. Reseller will notify SAP promptly of any unauthorized use of the Marks by others that comes to Reseller's attention. SAP, SAP AG, and their licensors shall have the sole right and discretion to bring infringement or other proceedings involving the Marks; provided, however, that it may agree with Reseller to jointly bring and/or pursue such proceedings. Other than enforcement activities related to Reseller Licensees, SAP shall bear the cost of registering, maintaining, protecting, and enforcing the Marks.

12. WARRANTIES; DISCLAIMER OF WARRANTY.

12.1 Representation and Warranty. Reseller represents and warrants that (i) within industry standards, it has and will maintain sufficient resources to perform its obligations under this Agreement; (ii) it is not prevented by any existing arrangement, contractual or otherwise, from entering into this Agreement; and (iii) it has now, and will maintain in the future, legal corporate status in good-standing and that it will comply in all material respects with all legal requirements applicable in every part of the Territory in which it does business.

12.2 Express Disclaimer. SAP DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, AT LAW OR IN EQUITY, RELATED TO THE SOFTWARE AND ANY THIRD PARTY SOFTWARE, OR ITS CHARACTERISTICS, QUALITY, PERFORMANCE, OR VALUE, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, EXCEPT TO THE EXTENT THAT ANY WARRANTIES IMPLIED BY LAW CANNOT BE VALIDLY WAIVED. SAP DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES REGARDING THE USE OR PERFORMANCE OF THE SOFTWARE WITH ANY THIRD PARTY SOFTWARE (OTHER THAN THE SOFTWARE'S COMPATIBILITY WITH THE THIRD PARTY DATABASE) AND DISCLAIMS ALL WARRANTIES WITH RESPECT THERETO IN ACCORDANCE WITH THIS SECTION 12.2. SAP MAKES NO REPRESENTATIONS OR WARRANTIES THAT THE SOFTWARE WILL OPERATE UNINTERRUPTED OR ERROR-FREE, OR THAT IT WILL BE FREE



FROM MINOR DEFECTS OR ERRORS THAT DO NOT MATERIALLY AFFECT PERFORMANCE, OR THAT THE APPLICATIONS CONTAINED IN THE SOFTWARE ARE DESIGNED TO MEET ALL OF RESELLER'S OR A RESELLER LICENSEE'S BUSINESS REQUIREMENTS AND DISCLAIMS ALL WARRANTIES WITH RESPECT THERETO IN ACCORDANCE WITH THIS SECTION 12.2.

12.3 No Representations or Warranties. Reseller shall not make any representations or warranties as to the performance of the Software, Maintenance, or other services on behalf of SAP or SAP AG, or otherwise bind SAP or SAP AG. SAP's warranty obligations, limitations, and liabilities related to the SAP End User License Agreement with Reseller Licensee shall be solely as stated therein.

13. LIMITATION OF LIABILITY.

13.1 Reseller's Remedies. Notwithstanding anything to the contrary herein, Reseller's sole and exclusive remedy for damages or loss in any way connected with the Software or services furnished by SAP, SAP AG, or their licensors, whether due to negligence or breach of any duty, shall be, at SAP's option: (i) replacement of the Software or reperformance of the services, or (ii) return or credit of an appropriate portion of any payment made or to be made by Reseller with respect to the applicable portion of the Software or services. The foregoing limitation of liability does not apply to the indemnity referred to in Article 14 or to personal injury or death caused solely by the gross negligence or willful misconduct of SAP. With respect to damage to tangible personal property (excluding data), SAP, SAP AG, or their licensors will not be responsible in any amount in excess of the amount by which such damage is paid by the liability insurance of such entity.

13.2 SAP Not Responsible. Neither SAP, SAP AG, nor their licensors will be responsible under this Agreement for: (i) the modification or improvement of the Software to fit the particular requirements of Reseller or a Reseller Licensee, or (ii) the correction of any program errors as a result of misuse of the Software by Reseller or by any Reseller Licensee. Under no condition will SAP, SAP AG, or their licensors be responsible under this Agreement for preparation or conversion of data into the form required for Use with the Software.

13.3 Exclusion of Damages/Liability Limit. ANYTHING TO THE CONTRARY HEREIN NOTWITHSTANDING, EXCEPT FOR DAMAGES RESULTING FROM UNAUTHORIZED USE OR DISCLOSURE OF THE RESELLER PROPRIETARY INFORMATION AND DAMAGES UNDER SECTION 14.3 (SUBJECT TO THE LIMITATIONS WITHIN THAT SECTION), UNDER NO CIRCUMSTANCES SHALL SAP, SAP AG, OR THEIR LICENSORS BE LIABLE TO RESELLER, ANY RESELLER LICENSEE, OR ANY OTHER PERSON OR ENTITY FOR AN AMOUNT OF DAMAGES IN EXCESS OF: (i) WITH RESPECT TO ANY CLAIM BY A RESELLER LICENSEE, THE TOTAL AMOUNT PAID BY RESELLER TO SAP DURING THE TERM OF THIS AGREEMENT FOR SOFTWARE ROYALTIES ON ACCOUNT OF SUCH RESELLER LICENSEE; OR (ii) WITH RESPECT TO ANY CLAIM OTHER THAN (i) ABOVE, THE TOTAL AMOUNT PAID BY RESELLER TO SAP FOR SOFTWARE ROYALTIES DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE CLAIM ANYTHING TO THE CONTRARY HEREIN NOTWITHSTANDING, UNDER NO



CIRCUMSTANCES SHALL SAP, SAP AG, OR THEIR LICENSORS BE LIABLE TO RESELLER, ANY RESELLER LICENSEE, OR ANY OTHER PERSON OR ENTITY FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES, LOSS OF GOODWILL OR BUSINESS PROFITS, WORK STOPPAGE, DATA LOSS, COMPUTER FAILURE OR MALFUNCTION, ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSS, OR EXEMPLARY OR PUNITIVE DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY THEREOF.

13.4 Severability of Disclaimer Provisions. IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT EACH AND EVERY PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTY, OR EXCLUSION OF DAMAGES, IS INTENDED BY THE PARTIES TO BE SEVERABLE AND INDEPENDENT OF ANY OTHER PROVISION AND TO BE ENFORCED AS SUCH.

13.5 Professional Advice. RESELLER ACKNOWLEDGES THAT NONE OF SAP, SAP AG, OR THEIR LICENSORS ARE ENGAGED IN THE BUSINESS OF RENDERING LEGAL, TAX, OR OTHER PROFESSIONAL SERVICES, AND THAT THE INFORMATION PROVIDED BY SAP RELATIVE TO THIS AGREEMENT OR IN RESPONSE TO RESELLER INQUIRIES ARE NOT INTENDED TO PROVIDE LEGAL, TAX, OR OTHER EXPERT ADVICE TO RESELLER, OR BE A SUBSTITUTE FOR A LAWYER, ACCOUNTANT, OR OTHER PROFESSIONAL. IF RESELLER NEEDS LEGAL OR TAX ADVICE OR OTHER EXPERT ASSISTANCE, THE SERVICES OF A COMPETENT LAWYER, ACCOUNTANT, OR OTHER PROFESSIONAL LICENSED TO PRACTICE IN THE APPLICABLE JURISDICTION SHOULD BE SOUGHT.

14. INDEMNIFICATION.

14.1 SAP Representation. SAP represents that SAP, SAP AG and its licensors, as the case may be, own the SAP Proprietary Information licensed by SAP to Reseller hereunder, including all intellectual property rights therein, and that SAP has all rights from SAP AG and its licensors necessary to license, in accordance with the terms of this Agreement, such SAP Proprietary Information to Reseller.

14.2 No Representation Regarding Combination Use. SAP makes no representation with respect to the possibility of infringement by Combination Use of the Software. The parties agree that SAP has no duty to investigate or to warn Reseller or Reseller Licensees of such possibility.

14.3 Indemnification of Reseller.

14.3(a) Subject to Section 14.2, SAP shall indemnify Reseller against all claims, liabilities and costs, including reasonable legal fees, up to the maximum amount described in Section 14.3(b), reasonably incurred in the defense of any claim brought against Reseller in the Territory by third parties alleging that Reseller's Use of the Software infringes or misappropriates any valid: (i) United States patent, or (ii) copyright, or (iii) trade secret rights;



provided that Reseller promptly notifies SAP in writing of any such claim and SAP is permitted to control fully the defense and any settlement of such claim. Reseller shall cooperate fully in the defense of such claim and may appear, at its own expense through counsel reasonably acceptable to SAP. SAP may, in its sole discretion, settle any such claim on a basis requiring SAP to substitute for the Software alternative substantially equivalent non-infringing programs and supporting Documentation.

14.3(b) The maximum aggregate liability of SAP under the indemnity provided in Section 14.3(a) above shall be limited to a sum equal to the full amount of the Software royalties paid to SAP by Reseller for the relevant Reseller Licensees at the time the claim of infringement arises, and if there should be more than one claim of infringement, the amount payable under such indemnity in respect of each claim shall be divided pro rata.

14.4 Indemnification of SAP. Reseller shall indemnify SAP, SAP AG and its licensors against all claims, liabilities, and costs and expenses, including reasonable legal fees, reasonably incurred in the defense of any claim (other than for the infringement of intellectual property rights specified in Section 14.3 above) including but not limited to any recalls, claims, suits, or other complaints arising out of (i) any misrepresentations or modifications made by Reseller relating to the Software, or (ii) Reseller's unauthorized Use, distribution, sublicensing, or reproduction of the Software licensed under this Agreement, or (iii) as set forth in Section 17.8, or (iv) Reseller's breach of Section 7.5, or (v) any federal, state, or local sales, use, property, excise, service or similar taxes (excepting taxes on SAP's income) and related costs, interest and penalties paid or payable by SAP, or (vi) Reseller's breach of Section 3.3 or noncompliance with applicable U.S. or foreign law with respect to the use or transfer of the Proprietary Information outside the United States by Reseller; provided that, SAP promptly notifies Reseller in writing of such claim and that Reseller is permitted to control fully the defense and any settlement of the claim.

14.5 SAP's Right to Commence Infringement Actions. SAP alone shall be responsible for taking such actions which it determines are reasonably necessary or desirable in its sole discretion in connection with any infringement or alleged infringement by a third party of any portion of the Software. Reseller shall not undertake any action in response to any infringement or alleged infringement of the Software without the prior written consent of SAP. Reseller agrees to cooperate with and assist SAP in taking whatever action (including consenting to being named as a party to any suit or other proceeding) SAP determines to be reasonably necessary or desirable. SAP agrees to reimburse Reseller for reasonable legal fees and other expenses incurred in connection with investigating or commencing action with respect to any such claim, suit, damage, or loss.

14.6 SAP's Duty to Indemnify Reseller. THE PROVISIONS OF THIS ARTICLE 14 STATE THE SOLE, EXCLUSIVE AND ENTIRE LIABILITY OF SAP, SAP AG AND ITS LICENSORS TO RESELLER, AND RESELLER'S SOLE REMEDY, WITH RESPECT TO THE INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS.



15. TERM AND TERMINATION.

15.1 Term. This Agreement shall be effective on the date specified in the first paragraph of this Agreement and shall have the term specified in Section 2.1, unless sooner terminated as provided herein. Unless otherwise agreed to in writing by the parties, this Agreement shall terminate automatically upon the expiration of the term.

15.2 Termination. A party may terminate this Agreement:

15.2(a) Upon thirty (30) days notice if the other party becomes insolvent, is the subject of a petition in bankruptcy that is not resolved within sixty days, admits in writing its inability to pay its debts, makes an assignment for the benefit of creditors, ceases doing business, or attempts an unauthorized assignment of this Agreement;

15.2(b) Upon notice, if the other party defaults in the performance of any material obligation of this Agreement, including without limitation failure to promptly pay any amount due hereunder, and fails to cure such default within ten (10) days after receiving notice specifying the default;

15.2(c) Immediately and without prior notice if (i) the other party breaches the Proprietary Information provisions of Article 11, or (ii), in the case of termination by SAP against Reseller, if there is a creation of a direct or indirect financial interest in Reseller with or by another entity that owns or markets a product competitive with the Software (a "Competitor");

15.2(d) For any reason whatsoever upon ninety (90) days prior written notice to the other party.

15.3 Rights and Obligations Upon Termination. Subsequent to any termination or expiration of this Agreement, the parties shall have the following rights and obligations:

15.3(a) Both parties shall cease acting in a manner that would suggest any continuing relationship between the parties regarding the Software and shall cease all display, advertising and marketing contemplated under this Agreement; provided that, subject to Section 15.5, SAP and Reseller shall continue to provide such Maintenance services to its Reseller Licensees pursuant to a contract with such Reseller Licensees or under this Agreement and in all cases in accordance with Section 6.4. Such post-termination Maintenance period under Section 6.4 may be extended by the parties in the event and to the extent SAP continues its support of Reseller (via prior written agreement) beyond such post-termination Maintenance period.

15.3(b) Within thirty (30) days of demand by SAP to Reseller, Reseller shall return or destroy all copies of the Software and any materials associated with the Software in Reseller's possession or control. In the event Reseller is Productively Using the Software pursuant to an SAP End User License Agreement between Reseller and SAP, Reseller may retain a Productive Use copy for those users actually in use at the time of termination so long as termination is not a result of a breach of this Agreement or resulting from control by a Competitor, and provided that



Reseller executes SAP's standard End User Agreement and Reseller pays to SAP the standard maintenance fee associated with the number and type of Users licensed.

15.3(c) Reseller shall immediately cease any Use (except as necessary to perform its ongoing Maintenance obligations, if any), reproduction, licensing, or distribution of the Software.

15.3(d) Within thirty (30) days of SAP's request, Reseller shall certify in a writing acceptable to SAP that all copies of the Software and other SAP Proprietary Information have been delivered to SAP, destroyed or rendered unusable;

15.3(e) Within thirty (30) days of Reseller's request, SAP shall certify in a writing acceptable to Reseller that all copies of the Reseller Proprietary Information have been delivered to Reseller, destroyed or rendered unusable.

15.3(f) Reseller shall not Use or employ any Software as part of any other product that Reseller may Use, license or distribute after the date of termination or expiration of this Agreement.

15.3(g) Reseller shall immediately cease and desist from any use of the SAP Marks.

15.4 Effect of Termination Upon Licenses. Upon termination or expiration of this Agreement, all valid licenses between SAP and Reseller Licensees shall remain and continue in full force and effect for the remainder of their term. SAP shall have no liability to Reseller for any future activities with respect to such Reseller Licensees.

15.5 Maintenance Continuance. Reseller shall provide SAP with the names and addresses of all Reseller Licensees to whom Reseller is under written agreement to provide Maintenance. At SAP's option, Reseller shall assign and delegate the rights and duties any of such Maintenance agreements to SAP.

15.6 Survival. The following provisions of this Agreement shall in all events survive its termination or expiration: Sections 6.4, 11.1, 11.2, 11.3(b), 12, 13, 14, 15.3, 15.8, 16, 17, and this Section 15.6. All obligations to pay valid invoices shall survive termination or expiration of the Agreement, for any reason. Termination resulting from Reseller's breach of this Agreement shall result in the immediate acceleration of Reseller's obligation to pay all sums due to SAP under this Agreement.

15.7 Rights Not Exclusive. The rights and remedies of SAP and Reseller included in this Article 15 shall not be exclusive and are in addition to any other rights and remedies provided by law or equity.

15.8 No Compensation. SAP shall not be liable to Reseller for damages, losses, or expenses of any kind or character on account of the termination or expiration of this Agreement, whether such damage, loss, or expense may arise from the loss of existing or prospective customers of Reseller, or expenses incurred or investments made in connection with the establishment, development, or maintenance of Reseller's business with respect to the matters contemplated under this Agreement. Subject in all cases to applicable law, termination or expiration shall not



affect any valid claim, demand, or liability of either party created or arising hereunder prior to such termination or expiration.

16. ASSIGNMENT.

16.1 Consent Necessary. This Agreement shall not be assigned or transferred by Reseller without the prior written consent of SAP which consent may be withheld in SAP's sole discretion and without the need for explanation. Any attempt to assign this Agreement without such consent shall be void. For the purposes of this Agreement, a consolidation, merger or reorganization of Reseller with or into another corporation or entity, or the creation of a new majority or controlling interest in, or change in majority ownership of Reseller, or a sale of all or substantially all of the assets of Reseller, shall be deemed an assignment.

17. GENERAL.

17.1 Notices. All notices or reports which are required or may be given pursuant to this Agreement shall be in writing and shall be deemed duly given when delivered to the respective executive offices of SAP and Reseller at the addresses first set forth above.

17.2 Governing Law. This Agreement shall be construed and controlled by the laws of the Commonwealth of Pennsylvania without reference to its choice of law rules.

17.3 Injunctive Relief. Both parties acknowledge that remedies at law may be inadequate to provide SAP or Reseller with full compensation in the event of Reseller's material breach of Sections 11 or 15.3, or SAP's material breach of Sections 11 with respect to Reseller Proprietary Information, and that the non-breaching party shall therefore be entitled to seek injunctive relief in the event of any such material breach.

17.4 Amendment. Neither party may amend this Agreement, except by a written amendment or supplement signed on behalf of SAP and Reseller by their respective duly authorized representatives.

17.5 Successors. This Agreement shall inure to the benefit of and be binding upon the parties, their successors, administrators, and authorized assigns.

17.6 Waiver. The failure of either party to enforce any term or condition of this Agreement shall not constitute a waiver of either party's right to enforce each and every term and condition of this Agreement.

17.7 Unenforceable Provisions. Should any provision of this Agreement be held by an arbitrator or a court of competent jurisdiction, as the case might be, to be illegal, invalid or unenforceable, the remaining provisions of this Agreement shall not be affected or impaired thereby.

Dec 23 03 02:04p Ralf Mehnert-Meland
DEC-23-2003 15:08

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610 595 4550 P.01/01



17.8 Relationship. Reseller is an independent contractor and is not an agent, employee, or legal representative of SAP. Reseller expressly acknowledges that it has no power or authority to accept any order for SAP, or to make guarantees or warranties concerning the Software or the delivery thereof, or to make any commitment for SAP or to obligate SAP in any respect whatsoever. Reseller agrees to indemnify SAP and to hold SAP harmless from and against any loss, claim, damages, fees (including attorneys' fees) or award arising from any breach of this Agreement, including but not limited to any violation or action in excess of Reseller's authority hereunder and arising out of any claims by any Reseller Licensees. This Agreement shall not be construed as creating a partnership, joint venture, agency relationship, or granting a franchise under any applicable laws.

17.9 Force Majeure. Any delay or nonperformance of any provision of this Agreement (other than for the payment of amounts due hereunder) caused by conditions beyond the reasonable control of the performing party shall not constitute a breach of this Agreement, and the time for performance of such provision, if any, shall be deemed to be extended for a period equal to the duration of the conditions preventing performance.

17.10 Confidential Terms and Conditions. Reseller shall not disclose the terms and conditions of this Agreement to any third-party.

17.11 Entire Agreement. This Agreement and the SAP Partner Program, as may be amended from time to time, are the complete and exclusive statement of the agreement between SAP and Reseller, and all previous representations, discussions, and writings are merged in, and superseded by, this Agreement and the SAP Partner Program. This Agreement may be modified only by a writing signed by both parties. The SAP Partner Program may be modified as provided herein.

IN WITNESS WHEREOF, the undersigned, intending to be legally bound, have duly executed this Agreement to become effective as of the date first above written.

LSI-LoGIC Systems Inc.

Accepted by:

David J. Lowery

Name: David J. Lowery

Title: President

Signature: _____

Accepted by:

SAP AMERICA, INC.

Name: _____

Title: _____

Signature: _____

Note: SAP is aware LSI currently has a relationship with Apelum Inc, a Software Company with products for the Distribution Industry.

SAP CONFIDENTIAL

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17.8 Relationship. Reseller is an independent contractor and is not an agent, employee, or legal representative of SAP. Reseller expressly acknowledges that it has no power or authority to accept any order for SAP, or to make guarantees or warranties concerning the Software or the delivery thereof, or to make any commitment for SAP or to obligate SAP in any respect whatsoever. Reseller agrees to indemnify SAP and to hold SAP harmless from and against any loss, claim, damages, fees (including attorneys' fees) or award arising from any breach of this Agreement, including but not limited to any violation or action in excess of Reseller's authority hereunder and arising out of any claims by any Reseller Licensees. This Agreement shall not be construed as creating a partnership, joint venture, agency relationship, or granting a franchise under any applicable laws.

17.9 Force Majeure. Any delay or nonperformance of any provision of this Agreement (other than for the payment of amounts due hereunder) caused by conditions beyond the reasonable control of the performing party shall not constitute a breach of this Agreement, and the time for performance of such provision, if any, shall be deemed to be extended for a period equal to the duration of the conditions preventing performance.

17.10 Confidential Terms and Conditions. Reseller shall not disclose the terms and conditions of this Agreement to any third-party.

17.11 Entire Agreement. This Agreement and the SAP Partner Program, as may be amended from time to time, are the complete and exclusive statement of the agreement between SAP and Reseller, and all previous representations, discussions, and writings are merged in, and superseded by, this Agreement and the SAP Partner Program. This Agreement may be modified only by a writing signed by both parties. The SAP Partner Program may be modified as provided herein.

IN WITNESS WHEREOF, the undersigned, intending to be legally bound, have duly executed this Agreement to become effective as of the date first above written:

Accepted by:
Daniel J. Lowery
LSI-Lowery Systems Inc.

Name: Daniel J. Lowery
Title: President
Signature: _____

Accepted by:
SAP AMERICA, INC.

Name: GARY FROMBER
Title: SVP, SMB & HOSTING
Signature: *Gary J.*

NOTE: SAP is aware LSI currently has a relationship with Aperium Inc, a Software Company with products for the Distribution Industry.



APPENDIX A

SOFTWARE END-USER NON-PRODUCTIVE USE LICENSE

SAP CONFIDENTIAL

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LSI-000044



SAP BUSINESS ONE SOFTWARE

NON-PRODUCTIVE USE TRAINING AND DEMONSTRATION LICENSE

VERSION 3.0 ("T&D LICENSE")

SAP and Reseller agree as follows:

1. **DEFINITIONS.** All capitalized terms used herein shall have the meaning ascribed by the Distribution Agreement and as below.

1.1 **"Designated Site(s)"** means the location(s) controlled by and specified in agreed upon Appendices or Exhibits to this T&D License.

1.2 **"Distribution Agreement"** means the SAP Business One Software Marketing and Distribution Agreement between SAP and Reseller.

2. **LICENSE GRANT.**

2.1. **Scope of License.** Subject to the terms and conditions and the accuracy of Reseller's representations hereinafter set forth, SAP grants to Reseller a non-exclusive, non-transferable license to the Software, and Documentation within the Territory solely for Non-Productive Use training and demonstration purposes as contemplated by this T&D License. No additional copies of the Software or any part thereof may be made by Reseller without the express written consent of SAP.

2.2. **Restrictions on Use.** Reseller agrees to Use the Software and Documentation or other SAP Proprietary Information provided hereunder solely for the following purposes:

(a) demonstration of the Software to third parties solely in accordance with authorized rights under the Distribution Agreement; and

(b) Internal training of Reseller's employees in support of Reseller's activities authorized under the Distribution Agreement.

Reseller will not use the Software, Documentation, Third Party Database or other SAP Proprietary Information in connection with any Productive Use, including without limitation running its own business or the business of any firm, person or organization. This license does not permit Reseller to: (i) use the Software and Third-Party Database for a service bureau application; or (ii) sublicense or rent the Software or Third-Party Database. Subject to the provisions of this Section 2.2, Reseller shall use the Software exclusively on the Designated Unit(s) identified below. Except to the extent expressly authorized herein, third parties and affiliates of Reseller are not authorized to use or have access to the Software, Documentation, or other SAP Proprietary Information.

2.3. **Transfer of Software.** Reseller may transfer the Software from one Designated Unit to another at no additional license fee, and shall provide written notice to SAP within five business days of such installation. Reseller shall be responsible for the cost of any migration tools, Third-Party Database costs, third-party software or additional Software required for the new Designated Unit. The Software must be promptly deleted in its entirety from the Designated Unit no longer in use and from each back-up copy for that Designated Unit.

2.4. **Audit Right.** During normal business hours and at any time during which the Software, Documentation, and other SAP Proprietary Information are being utilized pursuant to this T&D License, SAP or its authorized representatives or Licensors shall have the right, upon reasonable advance notice, to audit and inspect Reseller's utilization of such items, in order to verify compliance with the terms of this T&D License. Upon SAP's reasonable request, Reseller shall deliver to SAP a report, as defined by SAP, evidencing Reseller's usage of the Software licensed under the T&D License.

2.5. **No License for Third-Party Database.** The Software licensed hereunder requires a third party database product which has either been integrated or pre-installed as part of the Software, or which must be installed to Use the Software. Third party database product functionality as integrated in the Software may differ from a non-integrated third party database product. Each third party database product is subject to its respective third party



vendor License Agreement. This T&D License does not contain a license to use the integrated third party database product. Reseller has no right to use and is not licensed to use the copy of the third party database until Reseller has executed the T&D License, and execute a third party database license agreement for the third party database. Upon request, Reseller shall provide to SAP the invoice number and/or license number and corresponding date for the third party database. SAP makes no representations or warranties as to the terms of any license or the operation of any third-party database obtained directly from a third party supplier by Reseller. Reseller is responsible for support and maintenance of the third-party database licensed from a third party supplier, and SAP has no responsibility in this regard.

3. DELIVERY.

3.1. Delivered Copy. The licensed Software in machine-readable format, and the Documentation, shall be delivered as specified in the SAP Partner Program ("Delivery"). Reseller shall be responsible for installation of the Software.

4. PRICE AND PAYMENT.

4.1. License Fee. The Software delivered to Reseller under this T&D License is at no fee, royalty-free. Notwithstanding the foregoing, Reseller shall pay all fees established in accordance with the Distribution Agreement and SAP Partner Program.

4.2. Additional Fees. If SAP is required to pay taxes as a result of the grant of license hereunder (excepting taxes on SAP's income), SAP shall invoice Reseller for such taxes and Reseller shall pay for such taxes. Reseller hereby agrees to indemnify SAP for and hold it harmless from any such taxes and related costs, interest and penalties paid or payable by SAP.

5. TERM AND TERMINATION.

5.1. Term of License. This T&D License shall become effective upon execution of the Distribution Agreement and the license granted hereunder shall terminate upon the earliest to occur of the following: (i) thirty (30) days after either party gives the other party written notice of its desire to terminate this T&D License, for any reason, (however, Reseller may provide such notice only after payment of all License and Maintenance Fees then due and owing, if any); (ii) immediately upon SAP providing Reseller written notice of Reseller's material breach of its obligations under Sections 8 or 10; (iii) upon termination of the Distribution Agreement; (iv) immediately if Reseller files for bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors.

5.2. Effect of Termination. Upon termination of this T&D License:

- (a) the provisions of Sections 2.4, 4, 6, 8, 9, 10, 11.5, 11.6 and 11.7 shall survive the termination;
- (b) Reseller's rights under Section 2 (License Grant) shall immediately cease; and
- (c) Reseller shall perform its obligations under Section 5.3.

5.3. Duties Upon Termination. Upon any termination hereunder, Reseller shall immediately cease use of all SAP Proprietary Information and shall irrevocably delete and/or remove such items from all computer hardware and storage media. Within thirty days after any termination, Reseller shall deliver to SAP at Reseller's expense (adequately packaged and insured for safe delivery) or destroy all copies of the SAP Proprietary Information in every form. Reseller agrees an officer of Reseller's organization shall certify in writing to SAP that it has performed the foregoing.

6. PROPRIETARY RIGHTS.

6.1. SAP Proprietary Information.

(a) Reseller acknowledges that ownership of and title in and to all intellectual property rights, including patent, trademark, service mark, copyright, and trade secret rights, in the SAP Proprietary Information are and shall remain in SAP and its licensors. Reseller acquires only the right to use the SAP Proprietary Information in



accordance with this T&D License and does not acquire any ownership rights or title in or to the SAP Proprietary Information and that of SAP's licensors.

(b) Reseller shall not copy, translate, disassemble, or decompile, nor create or attempt to create, by reverse engineering or otherwise, the source code from the object code of the Software. In the event source code is provided to Reseller, SAP, in its sole discretion, reserves the right to delete, or to require the deletion of, such source code and all copies thereof in Reseller's possession or control whenever a future Release, Version, or Correction Level provides for like functionality in an object code format.

(c) Subject to Section 6.3, all Modifications shall be considered part of the Software and Documentation for purposes of this Section 6.

6.2 Protection of Proprietary Information. In order to protect the rights of SAP and its licensors and Reseller in their respective Proprietary Information, SAP and Reseller agree to take all reasonable steps and the same protective precautions to protect the Proprietary Information from disclosure to third parties as with its own proprietary and confidential information. Except as expressly permitted in Section 2.2 hereof, neither party shall, without the other party's prior written consent, disclose, provide, or make available any of the Proprietary Information of the other party in any form to any person, except to its bona fide employees, officers, or directors whose access is necessary to enable such party to exercise its rights hereunder. Each party agrees that prior to disclosing any Proprietary Information of the other party to any third party, it will obtain from that third party a written acknowledgment that such third party will be bound by the same terms as specified in this Section 6 with respect to the Proprietary Information and naming the other party as a third party beneficiary.

6.3. Modifications. Reseller may not create Modifications without the prior written authorization of SAP. Reseller expressly agrees that any Modifications of the Software developed by SAP, Reseller (authorized or unauthorized), their employees, agents or consultants shall become part of the Software and will be the property of SAP AG and that Reseller will not grant, either expressly or by implication, any rights, title, interest or licenses to the Modifications to any third party. Reseller shall provide complete source code for all Modifications to SAP. Reseller agrees that it will not modify any third party software provided hereunder unless expressly authorized in writing by such third party vendor.

6.4 Extensions. Reseller shall not create Extensions under this T&D License, but may be authorized by SAP under the terms of the Distribution Agreement or other written agreement with SAP to do so. If so authorized, the terms and conditions of the Distribution Agreement shall control such Extensions, including without limitation the creation, ownership, and use of such Extensions. If not so authorized, Reseller expressly agrees that any Extensions of the Software developed by SAP, Reseller, their employees, agents or consultants shall become part of the Software and will be the property of SAP AG and that Reseller will not grant, either expressly or by implication, any rights, title, interest or licenses to the such Extensions to any third party.

7. SUPPORT SERVICES.

7.1. At Reseller's request, and on terms to be agreed upon separately, SAP may agree to provide pre-installation support, installation support training and consulting services for the Software.

8. DISCLAIMER OF WARRANTY.

SAP DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, AT LAW OR IN EQUITY, RELATED TO THE SOFTWARE, DOCUMENTATION, SAP PROPRIETARY INFORMATION, THIRD PARTY DATABASE, AND ANY OTHER THIRD PARTY SOFTWARE, OR ITS OR THEIR CHARACTERISTICS, QUALITY, PERFORMANCE, OR VALUE, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, EXCEPT TO THE EXTENT THAT ANY WARRANTIES IMPLIED BY LAW CANNOT BE VALIDLY WAIVED.

9. DISCLAIMER OF LIABILITY.

9.1. THE SOFTWARE, DOCUMENTATION, THIRD PARTY DATABASE, ANY OTHER THIRD PARTY SOFTWARE, AND ANY OTHER SAP PROPRIETARY INFORMATION ("MATERIALS") ARE PROVIDED "AS-IS" WITHOUT ANY WARRANTY, ESCROW, TRAINING, MAINTENANCE, OR SERVICE OBLIGATIONS WHATSOEVER ON THE PART OF SAP. RESELLER ASSUMES ALL RISKS ASSOCIATED WITH ITS USE OF THE MATERIALS, INCLUDING WITHOUT LIMITATION RISKS RELATING TO QUALITY, PERFORMANCE, DATA



LOSS, AND UTILITY IN A PRODUCTION ENVIRONMENT. IN NO EVENT SHALL SAP, SAP AG, OR THEIR LICENSORS BE LIABLE TO RESELLER OR ANY THIRD PARTY FOR ANY DAMAGES ARISING IN CONNECTION WITH RESELLER'S USE OF OR INABILITY TO USE THE MATERIALS, IN CONNECTION WITH SAP'S PROVISION OF OR FAILURE TO PROVIDE SERVICES PERTAINING TO THE MATERIALS, OR AS A RESULT OF ANY DEFECT IN THE MATERIALS. THIS DISCLAIMER OF LIABILITY SHALL APPLY REGARDLESS OF THE FORM OF ACTION THAT MAY BE BROUGHT AGAINST SAP, WHETHER IN CONTRACT OR TORT, INCLUDING WITHOUT LIMITATION ANY ACTION FOR NEGLIGENCE. RESELLER'S SOLE REMEDY IN THE EVENT OF BREACH OF THIS T&D LICENSE BY SAP SHALL BE TERMINATION OF THIS T&D LICENSE.

9.2 Severability of Actions. IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT EACH AND EVERY PROVISION OF THIS T&D LICENSE WHICH PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS INTENDED BY THE PARTIES TO BE SEVERABLE AND INDEPENDENT OF ANY OTHER PROVISION AND TO BE ENFORCED AS SUCH.

10. NON-ASSIGNMENT.

10.1. Reseller may not, without SAP's prior written consent, assign, delegate, sublicense, pledge, or otherwise transfer this T&D License, or any of its rights or obligations under this T&D License, or the SAP Proprietary Information, to any party (including any affiliate), whether voluntary or by operation of law, including by way of sale of assets, merger or consolidation. Any permitted assignment of this T&D License shall provide that the provisions of this T&D License shall continue in full force and effect and that Reseller shall guaranty the performance of its assignee and shall remain liable for all obligations hereunder. This T&D License shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

10.2. SAP may assign this T&D License to SAP AG or to an entity designated by SAP AG.

11. GENERAL PROVISIONS.

11.1 Rights to Injunctive Relief. Reseller acknowledges that remedies at law may be inadequate to provide SAP with full compensation in the event of any material breach of Sections 2, 6, 10 or 11.5 of this T&D License by Reseller, and that SAP shall therefore be entitled to seek injunctive relief in the event of any such material breach.

11.2 Severability. It is the intent of the parties that in case any one or more of the provisions contained in this T&D License shall be held to be invalid or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the other provisions of this T&D License, and this T&D License shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein.

11.3. No Waiver. If either party should waive any breach of any provisions of this T&D License, it shall not thereby be deemed to have waived any preceding or succeeding breach of the same or any other provisions hereof.

11.4 Counterparts. This T&D License may be signed in two counterparts, each of which shall be deemed an original and which shall together constitute one T&D License.

11.5 Export Control Notice. Regardless of any disclosure made by Reseller to SAP of an ultimate destination of the Software, Documentation, Third-Party Database, and other provided SAP Proprietary Information, Reseller acknowledges that SAP's Software, Documentation, and Proprietary Information are being released or transferred to Reseller in the United States and are therefore subject to the U.S. export control laws. Reseller acknowledges its exclusive obligation to ensure that its exports from the United States are in compliance with the U.S. export control laws. Reseller shall also be responsible for complying with all applicable governmental regulations of any foreign countries with respect to the use of the Proprietary Information by its affiliates outside of the United States. Reseller agrees that it will not submit the Software to any government agency for licensing consideration or other regulatory approval without the prior written consent of SAP. Reseller shall defend, indemnify, and hold SAP and SAP AG and its licensors harmless from and against any and all claims, judgments, awards, and costs (including reasonable attorneys' fees) arising out of Reseller's noncompliance with applicable U.S. or foreign law with respect to the use or transfer of the Proprietary Information outside the United States by Reseller.

11.6 Confidential Terms and Conditions. Reseller shall not disclose the terms and conditions of this T&D License and the pricing contained therein to any third-party.



11.7 Governing Law. This T&D License shall be governed by and construed under Commonwealth of Pennsylvania law without reference to its conflicts of law principles. In the event of any conflicts between foreign law, rules, and regulations, and United States of America law, rules, and regulations, United States of America law, rules, and regulations shall prevail and govern. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this T&D License.

11.8 Notices. All notices or reports which are required or may be given pursuant to this T&D License shall be in writing and shall be deemed duly given when delivered to the respective executive offices of SAP and Reseller at the addresses first set forth above.

11.9 Force Majeure. Any delay or nonperformance of any provision of this T&D License (other than for the payment of amounts due hereunder) caused by conditions beyond the reasonable control of the performing party shall not constitute a breach of this T&D License, and the time for performance of such provision, if any, shall be deemed to be extended for a period equal to the duration of the conditions preventing performance.

11.10 Entire Agreement. This T&D License and each attachment hereto constitute the complete and exclusive statement of the agreement between SAP and Reseller with regard to the subject matter herein, and all previous representations are merged in and superseded by this T&D License. This T&D License may be modified only by a writing signed by both parties.

11.11 Designated Unit. For Software to be installed on a specific Reseller Designated Unit within the Territory, Reseller shall provide SAP with written notice of the type/model and serial number and location of each Designated Unit and the number of Users allocated to each such Designated Unit prior to such installation. Such notice shall be in a form materially similar to the Designated Unit Notice attached hereto as Schedule 1 and is to be sent to: SAP Contracts Department, Attention: Business One License Administration at the address first set forth above.

11.12 License Key. Each Non-Productive Use copy of the Software licensed hereunder requires a license keycode. The license keycodes will be issued by SAP AG within four (4) weeks from the date of installation of the Software on each Designated Unit. The required form to receive the license keycodes from SAP AG must be executed by Reseller and faxed to SAP AG within the four (4) week period following installation of the Software. The applicable form and fax number will be included in each installation kit provided to Reseller upon delivery of the Software. Resellers that subsequently change Designated Units for Use of the licensed Software must be re-issued license keycodes for each respective copy of the licensed Software. Failure of Reseller to obtain necessary license keycodes for the licensed Software within four (4) weeks of installation of such Software, will cause the Software to have limited User access until such time as the license keycodes are issued.



Designated Unit Notice

SAP BUSINESS ONE SOFTWARE - NON-PRODUCTIVE USE TRAINING AND DEMONSTRATION LICENSE

Software and User Allocation

(SAP Internal Use Only)

Customer # _____ Installation # _____ ZVAC # _____

1. Name of Reseller or Affiliate where Designated Unit is located: Lsi - Lowery Systems Inc

2. Designated Unit(s) to be identified by Reseller to SAP in writing.

Type/Model No.: _____

Serial No.: _____

Location of Designated Unit: _____

Telephone Number: _____

Software Delivery Contact Person: _____

3. Please indicate reason for executing this Designated Unit Notice:

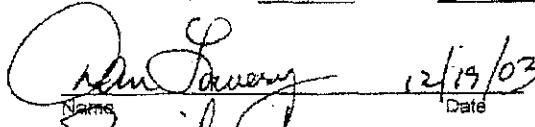
- New Installation
- Install the software on an additional central processing unit(s)
- Move a Designated Unit to a new location/address
- Change hardware and/or operating systems and/or database type

4. The total number of Named Users allocated to Use the Software, as per their respective rights set forth in the T&D License, at the above-specified location for the above-specified Designated Unit(s) are as follows:

Professional Users

Hardware Information		Operating System		Database*	
Manufacturer	Model	Manufacturer	Release	Manufacturer	Release

*Note: When Database is licensed from the vendor directly, insert P.O. Number _____, Invoice Number _____ and Date _____



12/14/03
Name: Dan Lowery Date: 12/14/03
Title: President

Lsi - Lowery Systems Inc
(Reseller)



APPENDIX B

MAINTENANCE OBLIGATIONS

SAP CONFIDENTIAL

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Maintenance

The terms and conditions regarding Maintenance for the Software for the Calendar Year 2003 are set forth below. The parties will negotiate in good faith the terms and conditions for Maintenance for the period after December 31, 2003. In the event the parties do not agree on terms and conditions for Maintenance for the period after December 31, 2003, prior to such date, SAP may, upon prior written notice to Reseller, (i) continue to provide Maintenance in accordance with the terms and conditions of this Appendix B for a period to be determined by SAP in its sole discretion; or (ii) establish such terms and conditions at the sole discretion of SAP.

Support Structure

Level 1 Maintenance (defined below) may be provided to Reseller Licensees by SAP, Reseller or a third party appointed by SAP as may be stated in the SAP Partner Program. In all cases, Reseller shall contract with Reseller Licensees desiring Level 1 Maintenance in accordance with the terms herein, and shall not make commitments or undertake obligations for Maintenance or support of the Software beyond what is stated in this Appendix B. SAP shall not be responsible for delivering Level 1 Maintenance directly to Reseller Licensees, but shall deliver Level 1 Maintenance to such Reseller Licensees through Reseller.

Level 1 Maintenance

If so agreed between the parties and subject to the terms and conditions of the SAP Partner Program, SAP may provide Level 1 Maintenance to Reseller for the support of Reseller Licensees until December 31, 2003. Level 1 Maintenance shall consist of the following minimum requirements:

- (i) providing a telephone helpdesk between the hours of 9:00 a.m. and 8:00 p.m. U.S. Eastern time, Monday through Friday exclusive of public holidays. Such helpdesk shall answer questions regarding the use, operation, installation, and upgrade of the Software, according to SAP's published user manuals, help files, knowledge databases, FAQ's and other published documentation with respect to the Software;
- (ii) providing answers and solutions to questions relating to the implementation and installation of the Software;
- (iii) providing answers and solutions to system upgrade questions or problems;
- (iv) receiving support cases and providing initial problem evaluation to customers

Reseller shall document its findings, record problems and keep SAP reasonably informed regarding its provision of Maintenance of the Software hereunder ("Feedback"). SAP shall have the full right to use such Feedback in any manner and where it may designate without any claim on the part of Reseller, including without limitation the further



development of the Software and/or Documentation. Use of the Feedback in connection with the further development of the Software and/or Documentation shall not impair or in any way affect SAP's ownership therein.

Level 2 Maintenance

Until December 31, 2003, SAP shall provide Level 2 Maintenance (defined below) to Reseller for the support of Reseller Licensees subject to the terms and conditions set forth in the SAP Partner Program. SAP shall not be responsible for delivering Level 2 Maintenance directly to Reseller Licensees, but shall deliver Level 2 Maintenance to such Reseller Licensees through Reseller.

Level 2 Maintenance shall mean the elimination, avoidance or circumvention of fault report messages generated by the Software.

SAP will promptly furnish to Reseller, for distribution to Reseller Licensees who are entitled thereto under existing Maintenance agreements, all new Releases, Versions, and Correction Levels, and such Level 2 Maintenance problem resolution services as SAP provides generally with respect to its licensees under Maintenance agreements or who are entitled thereto under warranty.

During the term of the Agreement, Level 2 Maintenance shall be available at a minimum for the then-current Version of the Software provided Reseller Licensee(s) are on the then-current Correction Level for such Version.



development of the Software and/or Documentation. Use of the Feedback in connection with the further development of the Software and/or Documentation shall not impair or in any way affect SAP's ownership therein.

Level 2 Maintenance

Until December 31, 2003, SAP shall provide Level 2 Maintenance (defined below) to Reseller for the support of Reseller Licensees subject to the terms and conditions set forth in the SAP Partner Program. SAP shall not be responsible for delivering Level 2 Maintenance directly to Reseller Licensees, but shall deliver Level 2 Maintenance to such Reseller Licensees through Reseller.

Level 2 Maintenance shall mean the elimination, avoidance or circumvention of fault report messages generated by the Software.

SAP will promptly furnish to Reseller, for distribution to Reseller Licensees who are entitled thereto under existing Maintenance agreements, all new Releases, Versions, and Correction Levels, and such Level 2 Maintenance problem resolution services as SAP provides generally with respect to its licensees under Maintenance agreements or who are entitled thereto under warranty.

During the term of the Agreement, Level 2 Maintenance shall be available at a minimum for the then-current Version of the Software provided Reseller Licensee(s) are on the then-current Correction Level for such Version.